

REMARKS

The Examiner has issued an Official Action requiring restriction between II groups of inventions. The groups identified by the Examiner are:

Group I: Claims 1-7, 31, and 41-46 drawn to a compound of formula I (wherein Z is S, O or =CH);

Group II: Claims 1-7, 31 and 41-46, drawn to a compound of formula I (wherein Z is N);

Group III: Claims 8-20 drawn to a process for the preparation of the compound;

Group IV- Claims 21-22 drawn to an intermediate compound of formula VII;

Group V-Claims 23-24, drawn to an intermediate compound of formula VI;

Group VI-Claims 25-26, drawn to an intermediate compound of formula X;

Group VII-Claims 27-28, drawn to an intermediate compound of formula XVI;

Group VIII-Claims 29-30, drawn to an intermediate compound of formula XVIII;

Group IX-Claims 32-38, drawn to a composition and method of treating infection;

Group X-Claims 39-40, drawn to a process for the preparation of the compound, and

Group XI-Claims 47-48, drawn to another process for the preparation of the compound.

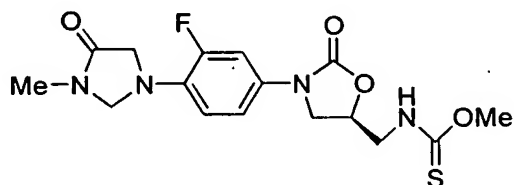
Applicants respectfully traverse this restriction requirement and request a new action. The Examiner's attention is drawn to the amendment filed with this application on August 1, 2003. (See attached file history downloaded from USPTO website) In that amendment, the claims were amended to define Z as NR^b. Therefore, the presence of Group I is not correct and should be deleted. Furthermore, claim 31 defining a composition is grouped with Groups I and II and claims 32 and 35 which also define a composition is part of Group IX. Applicants submit that claims 32 and 35 should be grouped with Group II. In addition, in the August 1, 2003 amendment, claims 21-30 were cancelled so the inclusion of Groups IV-VIII is incorrect. Claims 49-56 were added in the amendment of August 1, 2003 and none of these claims are included in the restriction requirement.

The Examiner's comments concerning rejoinder are noted. However, it is submitted that the process claims should be examined with the compound claims. In addition, it is submitted that the method of treatment claims should also be examined with the compound claims. The compound claims are novel and nonobvious thus the use of the compounds to treat bacterial infections are also novel and non-obvious.

Accordingly, applicants submit that the claims of Groups II, III, IX, X and XI should all be examined in this application along with claims 49-56.

If the Examiner disagrees with this, applicants submit that the claims of Groups II, and IX and claims 49-56 should be examined in this application. If the Examiner disagrees with this, then the applicants provisionally elect the claims of Group II including claims 49-54.

Applicants provisionally elect the species



This is the compound 95 disclosed on page 94 of the application. Claims presently on file which read on the species are claims 1, 6, 17, 19, 31-40, 42-46 and 49-56.

Claims 57-60 directed to this species and to its salts, and compositions thereof are being added.

Applicants preserve all rights to file one or more divisional applications directed to the subject matter of the nonelected claims and/or any other subject matter disclosed in the specification.

Applicants submit that the present application is in condition for allowance and favorable consideration is respectfully requested.

Respectfully submitted,

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